MATTER OF MINCHEFF

In Exclusion Proceedings

A-12343764

Decided by Board September 17, 1970 and June 22, 1971

Where applicant, a native and citizen of Argentina, who was admitted for permanent residence in 1961; who registered with the Selective Service and was classified 1-A in 1965; and who in January 1967 requested exemption from U.S. military service under the treaty with Argentina, following which the Selective Service System (mistakenly concluding that under the 1951 amendment to the Selective Service laws it was powerless to grant a permanent resident complete exemption) cancelled the induction order, again classified him 1-A (in which classification he has remained), and indefinitely postponed further processing of his case, he was not effectively relieved from military service within the meaning of section 315(a) of the Immigration and Nationality Act so as to become ineligible to citizenship thereunder; hence, he was not inadmissible under section 212(a)(22) of the Act upon his return to this country from a brief trip abroad in 1967. While the right of a treaty alien to claim and obtain effective relief from military service may now be regarded as settled (Opinion of the Attorney General, 42 Op. Atty. Gen. 28 (1968); endorsed in *Itzcovitz* v. *Selective Service Local Board No. 6*, 301 F. Supp. 168 (S.D. N.Y., 1969), appeal dismissed as moot, 422 F.2d 828 (C.A. 2, 1970)), this was not the case at the time applicant applied for relief and obtained indefinite postponement of his induction in early 1967.

EXCLUDABLE: Act of 1952—Section 212(a)(22) [8 U.S.C. 1182(a)(22)]—Alien ineligible to citizenship.

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